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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,691

09/30/2003

Kenneth M. Riff

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EXAMINER

REYES, REGINALD R

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

11/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/675,691	Applicant(s) RIFF, KENNETH M.	
	Examiner REGINALD REYES	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,9,16-25,33-37,39,41-47 and 52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 5, 6, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 33, 34, 35, 36, 37, 39, 41, 42, 43, 44, 45, 46, 47, and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 13, 2009 has been entered.

Status of Claims

2. Claims 1, 3, 4, 5, 6, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 33, 34, 35, 36, 37, 39, 41, 42, 43, 44, 45, 46, 47, and 52 have been examined and are addressed below.

Response to Amendments

3. With respect to claims 1, 3, 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, and 52, Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action therefore arguments are moot.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 4, 5, 6, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 33, 34, 35, 36, 37, 39, 41, 42, 43, 44, 45, 46, 47, and 52 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Mouchawar et al (U.S. 6,345,200) in view of Hartlaub et al. (U.S. 6,450,172) and Eggers et al (2006/0190302).

5. With respect to claims 1, 17, 34, and 42 Mouchawar teaches a method comprising: accessing patient medical information of a clinical information system with a medical device programmer (see for example Mouchawar column 3 lines 45-53); providing an interface by which a programming operator interacts with the medical device programmer to select the suggested programming parameter value based on the patient medical information (see for example Mouchawar column 3 lines 66-57 and column 4 lines 1-14 and column 12 lines 46-50); and programming a medical device with the medical device programmer in accordance with the suggested programming parameter value (example Mouchawar column 3 lines 66-67 and column 4 line 1 and column 12 lines 46-50). Mouchawar does not teach interrogating the medical device with the medical device programmer to obtain operational information and sensed physiological parameters from the medical device. Hartlaub teaches interrogation of

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programmed parameter values, operating modes and conditions of operations (see for example Hartlaub column 14 lines 38-63). Neither Mouchawar nor Hartlaub teaches automatically computing a suggested programming parameter value based on the patient medical information, the operational operation and the sensed physiological information via the medical device programmer. Eggers teaches a system and method that contains databases for operating parameters, treatment protocols, features etc that configure the device for use with the patient (as shown in paragraph 33, 70 and Fig. 2 and 3). One of ordinary skill in the art at the time of invention to combine the method of accessing patient medical information as taught by Mouchawar with the method of interrogating as taught by Hartlaub and the system and method for managing patient care taught by Eggers with the motivation of providing a more efficient way of accessing data from a IMD.

6. With respect to claims 3, 19, 35 and 44 Mouchawar in view of Hartlaub and Eggers teaches the method of claim 1 (as described above). Mouchawar teaches wherein accessing the patient medical information comprises accessing the patient medical information of the clinical information system via a gateway device that couples the clinical information system and the medical device programmer (see for example Mouchawar column 12 lines 54-61).

7. With respect to claims 4, 20, 22, 36 and 45 Mouchawar in view of Hartlaub and Eggers teaches the method of claim 1 (as described above). Mouchawar teaches

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further comprising filtering the patient medical information to obtain a subset of the patient medical information from the clinical information system (see for example Mouchawar column 4 lines 1-14).

8. With respect to claims 5 and 46 Mouchawar in view of Hartlaub and Eggers teaches the method of claim 1 (as described above). Mouchawar teaches wherein accessing the patient medical information of the clinical information system comprises accessing the patient medical information of a plurality of clinical information systems (see for example Mouchawar column 9 lines 55-67).

9. With respect to claims 6, 23, 37 and 47 Mouchawar in view of Hartlaub and Eggers teaches the method of claim 1 (as described above). Mouchawar teaches further comprising presenting the patient medical information to the programming operator via the medical device programmer (see for example Mouchawar column 4 lines 5-14).

10. With respect to claims 24 Mouchawar in view of Hartlaub and Eggers teaches the system of claim 17 (as described above). Mouchawar teaches further comprising: automatically computing a programming parameter value based on the patient medical information (see for example Mouchawar column 3 lines 49-53); and displaying the computed programming parameter value to the programming operator via the medical device programmer (see for example Mouchawar column 4 lines 5-14).

11. With respect to claim 9, 25 and 39 Mouchawar in view of Hartlaub and Eggers teaches the method of claim 1 (as described above). Mouchawar teaches further comprising initiating a programming session with the medical device to update at least one programming parameter value of the medical device based on the identified programming parameter value (see for example Mouchawar column 7 lines 47-50).

12. With respect to claims 16, 33, 41 and 52 Mouchawar in view of Hartlaub and Eggers teaches the method of claim 1 (as described above). Mouchawar teaches wherein the medical device comprises one of an implantable pacemaker, an implantable cardioverter/defibrillator (ICD), an implantable pacemaker/cardioverter/defibrillator (PCD), a neurostimulation device, and a drug delivery device (see for example Mouchawar column 3 lines 66-67 and column 4 line 1).

13. With respect to claims 18 and 43, Mouchawar in view of Hartlaub and Eggers teaches the method of claim 1 (as described above). Mouchawar teaches wherein accessing the patient medical information comprises directly accessing the patient medical information of the clinical information system (see for example Mouchawar column 3 lines 45-53). Regarding “wherein/whereby” clauses, according to the MPEP, “whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited” (*Minton v. Nat’l Ass’n of Securities*

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Dealers, Inc., 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003))". Also, a (whereby/wherein) clause that merely states the result of the limitations in the claim adds nothing to the patentability or substance of the claim ((*Texas Instruments Inc. v. International Trade Commission* 26, USPQ2d 1010 (Fed. Cir. 1993); *Griffin v. Bertina*, 62 USPQ2d 1431 (Fed. Cir. 2002); *Amazon.com Inc. v. Barnesandnoble.com Inc.*, 57 USPQ2d 1747 (CAFC 2001)).

14. With respect to claim 21, Mouchawar in view of Hartlaub and Eggers teaches the system of claim 19 (as described above). Mouchawar teaches wherein the gateway device computes a programming parameter value based on the patient medical information (see for example Mouchawar column 7 lines 57-59).

15. Claims 10, 11, 12, 13, 14, 15, 26, 27, 28, 29, 30, 32, 40, 49, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mouchawar et al (U.S. 6,345,200) in view of Snell (U.S. 6,249,705) and Hartlaub et al. (U.S. 6,450,172) and Eggers et al (2006/0190302).

16. With respect to claims 10, 26, and 40 Mouchawar in view of Hartlaub and Eggers teaches the method of claim 9 (as described above). Mouchawar in view of Hartlaub does not teach wherein initiating a programming session comprises initiating a remote programming session. Snell teaches capturing and examining data at a remote location (see for example Snell column 5 lines 49-56). It would have been obvious to one of ordinary skill in the art at the time of application to combine remotely accessing

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program sessions to initiate programs faster and also to make use of the available technologies.

17. With respect to claims 11 and 27 Mouchawar in view of Hartlaub, Eggers and Snell teaches the method of claim 10 (as described above). Snell teaches wherein initiating the programming session comprises sending instructions to an intermediary programming device via a network (see for example Snell column 3 lines 20-25).

18. With respect to claim 12 Mouchawar in view of Hartlaub, Eggers and Snell teaches the method of claim 9 (as described above). Snell teaches wherein initiating a programming session comprises initiating a programming session in a clinical setting (see for example Snell column 5 lines 7-9).

19. With respect to claims 13, 28, and 49 Mouchawar in view of Hartlaub, Eggers and Snell teaches the method of claim 1 (as described above). Snell teaches, further comprising: interrogating the medical device to extract information stored by the medical device; and sending the information extracted from the medical device to the clinical information system; and storing the information within the clinical information system (see for example Snell column 5 lines 49-56).

20. With respect to claims 14, 29, 30 and 50 Mouchawar in view of Hartlaub, Eggers and Snell teaches the method of claim 1 (as described above). Snell teaches further

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comprising: receiving input from the programming operator via the interface identifying administrative data; and sending the administrative data to the clinical information system (see for example Snell column 5 10-16 and column 10 lines 53-59).

21. With respect to claim 15, 32 and 51 Mouchawar in view of Hartlaub, Eggers and Snell teaches the method of claim 1 (as described above). Mouchawar teaches wherein the clinical information system comprises one of a healthcare information system, an electronic medical records system, a practice management system, a cardiovascular information system, a clinical laboratory information system, radiology information system, and a picture archiving and communication system (see for example Snell column 4 lines 45-48).

22. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mouchawar et al (U.S. 6,345,200) view of Snell (U.S. 6,249,705) in view of Lavin et al. (U.S. 5,772,585) and Hartlaub et al. (U.S. 6,450,172) and Eggers et al (2006/0190302).

23. With regards to claim 31 Mouchawar in view of Hartlaub, Eggers and Snell teaches the system of claim 30 (as described above). Mouchawar in view of Hartlaub and Snell does not teach wherein the clinical information system automatically generates at least one of a bill and a subsequent appointment. Lavin teaches automatically generating a bill after an office visit (see for example Lavin column 13 lines 55-59). It would have been obvious to one of ordinary skill in the art at the time of

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invention to combine the features to speed up the billing service of clinics.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,574,511 teaches passive data collection system from a fleet of medical instruments and implantable devices.

U.S. Patent No. 6,415,175 teaches interface from a medical device system.

U.S. Patent No. 5,944,745 teaches implantable medical device capable of prioritizing diagnostic data and allocating memory for same.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REGINALD REYES whose telephone number is (571)270-5212. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. R./

Examiner, Art Unit 3626

/C. Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626